



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 220701-0149]

RIN 0648-BF01

Fisheries of the Northeastern United States; Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: Based on the Atlantic States Marine Fisheries Commission's recommendations, we are proposing to establish individual and aggregate trap caps in Lobster Conservation Management Areas 2 and 3, and institute mandatory coastwide electronic harvester reporting for all Federal lobster vessels. The proposed ownership caps and trap cap reduction measures are intended to reduce fishing exploitation and latent effort in the trap fishery by scaling the fishery to the size of the Southern New England lobster stock. The proposed harvester reporting requirement is intended to improve the spatial resolution of harvester data, and improve and expand the collection of fishery effort data. This action is necessary to ensure fishery regulations for the lobster fishery in Federal waters remain compatible with the intent of the Commission's Interstate Fishery Management Plan for American Lobster and consistent with the Atlantic Coastal Fisheries Cooperative Management Act.

DATES: Comments must be received on or before *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2022-0032,

by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter “NOAA-NMFS-2022-0032” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personally identifiable information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields, if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to (enter office name) and to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

Background

Statutory Authority

The proposed regulations would modify Federal lobster fishery management measures in the Exclusive Economic Zone (EEZ) under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*),

which states, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate fishery management council(s), the Secretary of Commerce may implement regulations to govern fishing in the EEZ, from 3 to 200 nautical miles offshore. The regulations must be: (1) Compatible with the effective implementation of an Interstate Fishery Management Plan developed by the Atlantic States Marine Fisheries Commission; and (2) consistent with the National Standards set forth in section 301 of the Magnuson-Stevens Act.

Purpose and Need for Management

The purpose of the proposed action is to manage the American lobster fishery in a manner that maximizes resource sustainability, recognizing that Federal management occurs in concert with state management, and thus, that compatibility between state and Federal measures is crucial to the overall success of American lobster management. To achieve this purpose, we are responding to state management measures to address poor stock conditions and persistent recruitment failure of the Southern New England (SNE) American lobster stock. We are also responding to efforts to improve the spatial resolution of harvester data, and improve and expand the collection of fishery effort data. We request public comment and data on the potential impact of the proposed provisions given the need for compatibility with state measures and the need to address the declining SNE American lobster stock.

Background

The American lobster fishery is managed by the Commission under Amendment 3 to the Interstate Fishery Management Plan for American Lobster. Since 1997, the Commission has coordinated the efforts of the states and Federal Government toward sustainable management of the American lobster fishery. We manage the portion of the fishery conducted in Federal waters from 3 to 200 miles offshore, based on management

recommendations made by the Commission.

The American lobster management unit is divided between two lobster stocks and seven Lobster Conservation Management Areas. There have been a number of stock assessments over the last decade – the most recent being in 2020 -- but the 2009 stock assessment was a critical starting point for much of what is being proposed in this action. The 2009 stock assessment indicated that the SNE American lobster stock, which includes all or part of six Areas, was at a low level of abundance and was experiencing persistent recruitment failure caused by a combination of environmental factors and continued fishing mortality. The 2015 and 2020 assessments have since yielded similar results.

To address the poor condition of the SNE stock, the Commission adopted Addenda XXI and XXII in 2013 as part of an attempt to scale the SNE fishery to the diminished size of the SNE resource. These addenda were developed to address latent effort in the fishery and, by reducing trap limits to reduce harvest, allow for potential stock rebuilding. We temporarily delayed this rulemaking action from 2016 through 2017 because the Commission was contemplating additional measures to address the poor condition of the SNE stock in Addendum XXV. We did not want to initiate a regulatory regime that the Commission might eventually seek to rescind. Ultimately, the Commission abandoned Addendum XXV. We again began development of Federal waters Addenda XXI and XXII measures.

While we were developing this action, the Commission adopted Addendum XXVI in February 2018, which aimed at improving harvester reporting and biological data collection in state and Federal waters. Addendum XXVI intends to improve the spatial resolution of harvester data, improve and expand the collection of fishery effort data, and obtain better data on the offshore fishery and lobster stock through increased biological sampling. This proposed rule also seeks to implement elements of Addendum

XXVI into Federal regulations. Copies of the addenda are available on the Commission's website at: <https://www.asmfc.org>.

Proposed Measures

Area 2 Measures

In Area 2, we propose an ownership cap that would restrict a Federal permit holder to 800 active Area 2 traps, effective on May 1, 2024. This measure complements the Commission's Area 2 recommendations in Addendum XXI, but does not propose the specific Area 2 measures as originally envisioned. The Commission intended Addendum XXI measures be implemented in conjunction with the 2016-2021 Area 2 trap reductions, which were completed as of May 1, 2021. We request comment on whether these proposed measures meet the Commission's intent, given the current state of the Area 2 fishery.

When approved by the Commission in 2013, Addendum XXI included three main provisions for the Area 2 fishery:

1. A 'single ownership or individual permit cap' that would allow an entity, in this case a Federal vessel, an allocation of no more than 1,600 traps (800 active traps and 800 banked traps). In effect, this would allow for the banking of traps above and beyond the Area's maximum trap cap under one permit.
2. An 'aggregate ownership cap' intended to reduce the chance of any entity exerting significant control over the markets and to maintain cultural and geographic diversity in the fishery that would limit each entity to an allocation of not more than 1,600 Area 2 lobster traps (800 active and 800 banked), regardless of the overall number of permits held by a single entity. The addendum did not provide a specific definition of an entity, but we propose below to use a definition that is consistent with the definition used in other federally managed Greater Atlantic Regional Fisheries Office (GARFO)

fisheries; and

3. A ‘sunset provision’ for the single ownership cap, which would revert the allocation cap to no more than 800 Area 2 traps, effective two years after the last Addendum XVIII trap reduction (May 1, 2023).

The Commission intended its Area 2 measures to allow a permit holder the ability to acquire a total of 1,600 Area 2 lobster traps (800 active and 800 ‘banked’) on one permit by purchasing traps in excess of the 800 active-trap limit through the annual trap transfer program. As the Area 2 allocations were reduced by annual 2016-2021 trap cuts, the permit holder could activate these excess or ‘banked’ traps to maintain their vessel’s former allocation of fishable traps, without incurring a repeated 10-percent conservation tax associated with the trap transfer program (although the 10-percent conservation tax would nevertheless apply when initially purchased). When the trap reductions were completed, the sunset clause was intended to give permit holders two years to make any final adjustments to their active allocations using banked traps. After the two-year adjustment period, banked traps would be eliminated and a permit holder would be limited to the active allocations associated with their Area 2 permits, not to exceed 800 Area 2 traps, as the ownership cap would revert to 800 traps. This was intended to eliminate from the fishery any unused or latent traps that had been banked and revert Area 2 to an owner/operator fishery. Permit holders could still use the Trap Transfer Program after banking is eliminated to make further adjustments to their active trap allocations through purchase or sale agreements with other Federal lobster permit holders.

Given that the annual 2016-2021 trap reductions are complete, trap ‘banking’ provisions of Addendum XXI are no longer a necessary element of the Area 2 management plan. Our proposed ownership cap of 800 active Area 2 traps, effective on May 1, 2024, incorporates elements of the Addendum XXI within the current context of

the fishery. Despite excluding the now-moot banking recommendation, this proposed cap makes an effort to realize the ultimate desired outcome of Addendum XXI:

Implementing the ‘aggregate ownership cap’ by restricting an entity holding an Area 2 permit, defined as persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a vessel, to 800 active Area 2 traps at the end of a two-year adjustment period. The Addendum also included a provision whereby an entity owning two or more permits (i.e., 1,600 traps) would be allowed to retain those permits and traps, but may not own or share ownership of any additional permits.

The provisions of Addendum XXI allow a two-year sunset clause, whereby all banked allocation is eliminated. With banking no longer a necessary element of the Area 2 plan, the sunset clause will not act to eliminate residual allocation, but here we consider its implementation as a means of offering another tool for adjusting allocations prior to finalizing the active ownership cap. Therefore, the proposed rule would cap all entities at 800 active traps two years after the last wave of trap reductions (*i.e.*, May 1, 2024), regardless of the number of individual permits owned. This option would further restrict the fishery by establishing a *de facto* owner/operator fishery. That is, a single entity would be restricted to fish no more than 800 traps, regardless of how many permits they owned. In other words, this action would not take away federal lobster permits, but an entity would be limited to fishing no more than 800 traps no matter how many Federal lobster permits the entity owned.

Addendum XXI originally included a provision that would allow an entity owning two or more permits (*i.e.*, 1,600 traps) as of 2003 to retain those permits and traps, but they would not be allowed to expand further by owning or sharing ownership of any additional permits. Our analysis indicates that, as of 2018, only five entities with Area 2 permits exceeded this limit of two or more permits. Given that the vast majority of the

Area 2 fishery remains owner/operator, these five entities are an extremely small portion of the fishery and allowing them to fish at status quo levels will not undermine the purpose and need for this rule. We propose to allow all five entities to retain these permits and traps, but prevent these entities from ownership in additional permits and traps. We believe these proposed Area 2 measures are consistent with the Commission's intent to maintain an owner/operator fishery without unnecessarily restricting entry and exit of operators or negatively affecting fishing communities in Area 2 and request specific comment on this proposal.

Area 3 Measures

In Area 3, we propose a reduction of the existing active trap cap from 1,945 traps to 1,548 traps, over the course of three fishing years (*i.e.*, 2023, 2024, and 2025). We also propose establishing an aggregate ownership cap that would continue to allow a permit holder to accumulate and hold as many permits as they desired, but that would nevertheless cap the number of traps a permit holder could fish to the equivalent of five times the active trap cap. The aggregate ownership cap would be reduced over three years, in proportion to the active trap cap reduction, as summarized in Table 1. For permit holders who currently exceed the proposed limits, we propose to cap their allocations at current levels as of the publication of this proposed rule and prohibit them from exceeding this level.

Table 1 - Area 3 Active Trap Cap and Aggregate Ownership Cap Reductions

Fishing Year	Active Trap Cap	Aggregate Ownership Cap
2021 (current limits)	1,945	n/a
2023	1,805	9,025
2024	1,629	8,145
2025	1,548	7,740

These measures would complement the Commission's recommendations in Addenda XXI and XXII, but do not propose the Area 3 measures as originally envisioned. The differences are minor and are due to the addenda's intention to be

implemented in conjunction with the 2016-2020 Area 3 trap reductions, which were completed on May 1, 2020. We request comment on whether these proposed measures meet the Commission's intent given the current state of the Area 3 fishery.

Addenda XXI and XXII included the following provisions for Area 3:

1. A reduction in the active trap cap of 5 percent per year over five years, from 2,000 traps to 1,548 traps. (The current Federal Area 3 active trap cap is 1,945 traps and would start from this slightly lower trap level.)
2. An 'individual permit cap' that would allow a permit holder to bank traps in excess of the active trap cap for one permit. The individual permit cap would be lowered over five years, proportionate to the active trap cap reductions; and
3. An 'aggregate ownership cap' that would limit each entity to an allocation of not more than 5 times the individual permit cap. The addendum did not provide a specific definition of an entity, but we propose below to use a definition that is consistent with the definition used in other federally managed GARFO fisheries. The aggregate ownership cap would be lowered over five years, commensurate with the active trap cap reductions.

The Commission intended the active trap cap reductions to scale the size of the Area 3 fishery to the stock and to prevent consolidation. As with Area 2, the Commission intended its Area 3 individual permit cap to allow harvesters the ability to acquire traps in excess of the active trap limit through the annual trap transfer program and activate "banked" traps during the 2016-2020 trap cuts, thus maintaining the permit's former allocation of fishable traps, without incurring an additional 10-percent conservation tax associated with the initial trap transfer. Finally, the aggregate ownership cap was intended as another tool to help prevent excessive consolidation of the Area 3 fishery.

Given that the annual 2016-2020 trap reductions are complete, the individual permit cap or trap 'banking' provisions of Addendum XXII are no longer a necessary

element of the Area 3 management plan. Further, because of other proposed Area 3 measures that will limit the number of total traps a permit holder can own, a limit on the number of permits is no longer necessary. Therefore, we are not proposing an individual permit cap.

Instead, we propose only the active trap cap reductions, with an aggregate ownership cap that is equal to five times the active trap cap. This differs slightly from the Commission's original recommendation, but it nevertheless remains consistent with the Commission's intent to limit future consolidation. And more to the point, it acts upon Addenda XXI and XXII recommendations within the current context of the fishery. If approved, permit holders would be allowed to use transferability to adjust their allocations.

Understanding the desire by industry to implement these reductions as soon as possible, and being aware that these reductions count toward Area 3 risk reduction measures implemented in the Atlantic Large Whale Take Reduction Plan final rule (86 FR 51970, September 17, 2021), we propose to implement these reductions on an accelerated schedule relative to the Commission's recommendation, achieving the reductions over three years instead of five years. We request comment on this reduction schedule.

Mandatory Reporting

Currently, all commercial and for-hire fishing vessels permitted by GARFO, except Federal lobster permit holders, are required to submit vessel trip reports electronically within 48 hours of the end of a trip. We are proposing expand the mandatory electronic harvester reporting requirements to Federal lobster permit holders and add the collection of several additional data elements in the electronic form, no earlier than January 1, 2023, as recommended by the Commission. The submission of electronic vessel trip reports (eVTR) is being proposed to align the reporting

requirements for Federal lobster permit holders with the existing reporting requirements for all other fisheries permitted by GARFO. As discussed above, the Commission adopted Addendum XXVI in February 2018 to improve the spatial resolution of harvester data, to improve and expand the collection of fishery effort data, and to obtain better data on the offshore fishery and lobster stock through improved biological sampling. More specifically, it recommends that we implement a Federal mandatory reporting requirement as soon as possible, and develop and use a specialized, fixed-gear reporting form that includes data fields for improved spatial fishery data and fishing effort information. It also provides specific recommendations for expanded sea sampling and biological sampling requirements. We published an advance notice of proposed rulemaking in 2018 (83 FR 27747, June 14, 2018) to inform the public that we were considering implementing a mandatory harvester reporting requirement and analyzing it within this action. We do not intend to take action on biological and sea sampling recommendations at this time.

Since that time, the New England and Mid Atlantic Fishery Management Councils completed, and we implemented, a joint action requiring all vessels holding permits under their management authority to submit mandatory eVTRs. In addition to changing the submission method, the Council's joint action advanced the submission requirement for all Federal fisheries under Council jurisdiction to 48 hours following the completion of a trip. We published a final rule (85 FR 71575) requiring electronic submission of VTRs for Council-managed fisheries on November 10, 2020, and implemented this requirement for all limited access commercial fisheries managed by the Councils, which eliminated the option to submit VTRs using a paper form, on November 10, 2021. These actions, and the recommendations of the Commission and others to expand harvester reporting to the lobster fleet, have prompted us to consider a universal approach to revising harvester reporting requirements.

Therefore, we are proposing to implement mandatory trip-level electronic harvester reporting of existing data elements for all Federal lobster permit holders, beginning January 1, 2023, using the requirements outlined above. This action would implement consistent reporting requirements, methods, and timing of submission across all GARFO fisheries. We specifically request comment on the timing of this requirement. We recognize that mandating the collection of this data as soon as possible is essential to improve the science and management of the lobster fishery, to understand the co-occurrence of the fishery with protected species, and to support our ability to determine impacts from other marine activities. However, this requirement constitutes a change for Federal lobster permit holders. Providing sufficient time between this notice and implementation will be essential to ensure compliance with this new requirement. Thus, we request comment on an implementation date that balances the need for this data with sufficient time for industry to prepare.

This rule also proposes the collection of several additional data elements in the electronic form, no earlier than January 1, 2023. In addition to the existing reporting elements of the Federal VTR, Addendum XXVI recommended that we collect Lobster Management Area fished, 10-minute square fished, number of traps hauled, trip length, and total number of buoy lines in the water. As states and NMFS moved to consider modifying databases to accommodate the collection of these elements, the Commission convened a Data Working Group during 2020, consisting of state and Federal partners, Atlantic Coastal Cooperative Statistics Program (ACCSP) staff, and the Commission's lobster policy staff. The Working Group provided guidance for how jurisdictions should collect these data, which resulted in a March 8, 2021, letter recommending the collection of additional data elements, including: Total number of traps hauled by chart area; total number of traps in the water in each chart area fished; average number of traps per string hauled in each chart area fished; total number of buoy lines in each chart area fished; and

total number of buoy lines in the water.

We are able to derive the lobster management area and 10-minute square fished using the latitude/longitude information already collected on the eVTR. Similarly, trip length can be derived using the difference between date/time landed and date/time sailed, fields that are already collected on the eVTR. We believe that the collection of this information is redundant and therefore contrary to public interest to collect. Therefore, we are not proposing to collect these data elements; however, these derived data could be made available to the ACCSP data warehouse. We specifically request comment on the utility of these data elements and on the proposal to not collect these data elements.

Given Addendum XXVI and the March 8, 2021, recommendations, we propose the collection of the following additional information:

Data Element	Description
Total number of traps hauled by chart area	This data element includes the direct collection of the number of traps hauled in a chart area. This data element could be calculated from data that is currently collected, but has been recommended for direct collection.
Number of traps in chart area fished	In addition to total number of traps in the water already on the VTR, this data element includes the direct collection of the number of traps in a given chart area at the beginning of each trip.
Average number of traps per string hauled in the chart area fished	In addition to average number of traps per string already on the VTR, this data element includes the average number of traps per string in the chart area fished.
Number of buoy lines in the chart area fished	This data element includes the direct collection of the number of buoy lines in a given chart area at the beginning of each trip.
Total number of buoy lines in the water	This data element includes the direct collection of the total number of buoy lines in the water.

We are proposing to require the additional data elements no sooner than January 1, 2023. A potential delay in implementation may be necessary to provide sufficient time to complete regional and ACCSP database and programming modifications by vendors for all currently approved and pending eVTR applications. We request comment on this delay in data collection for Federal lobster permit holders.

Proposed Corrections

We intend to use this rule to make several regulatory corrections. We intend to remove several regulations that are no longer necessary, including:

- Area 1 participation requirements at § 697.4(a)(7)(vi);
- Outer Cape Area participation requirements at § 697.4(a)(7)(vii);
- Area 2 participation requirements at § 697.4(a)(7)(viii);
- Outdated lobster size restrictions at § 697.20(a)(5) and (6); and
- Outdated gear marking requirements at § 697.21(a)(1).

In addition, we propose to make corrections to several regulations, including:

- Updating the Greater Atlantic Regional Fisheries Office name and address in several locations;
- Correcting management area coordinates at § 697.18 and § 697.23; and
- Trap transferability requirements at § 697.27(a)(1)(vi), allowing traps in any increment to be transferred.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Coastal Fisheries Cooperative Management Act, applicable provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble.

A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Description of the Reasons Why Action by the Agency is Being Considered

In response to the continued decline of the SNE lobster stock, the Commission approved Addenda XXI and XXII to revise the Areas 2 and 3 management programs. In addition, the Commission approved Addendum XXVI to improve data collection programs. The Commission recommended that Federal government to implement measures consistent with these addenda. To the extent practicable, we aim to implement regulations consistent with Commission recommendations, and those promulgated by our partner states.

Statement of the Objectives of, and Legal Basis for, this Proposed Rule

The objective of this action is to adjust American lobster management in response Addenda XXI, XXII, and XXVI to the American Lobster Plan. The purpose of the proposed measures is to manage the Federal lobster fishery in a manner consistent with:

- The Atlantic Coastal Act;
- the National Standards of the Magnuson-Stevens Act;
- the Jonah Crab Plan;
- states laws and regulations;
- and other applicable Federal laws.

The legal basis for the proposed action is the American Lobster Plan and promulgating regulations at part 697.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

As of June 1, 2021, NMFS had issued 2,291 Federal American lobster permits that are potentially regulated by this action. The Area 2 preferred alternative would apply to 131 Federal permits, and the Area 3 preferred alternatives would apply to 82 Federal

permits. The reporting requirements preferred alternative would apply to all 2,291 Federal American lobster permits, though many of these permit holders are already subject to electronic trip reporting pursuant to the Council action described above.

Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Greater Atlantic Region Federal fishing permit. The current ownership data set is based on calendar year 2020 permits and contains gross sales associated with those permits for calendar years 2018 through 2020.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of \$8.0 million for all its affiliated operations. Similar to permit data, the annual average of the three most recent years (2018-2020) is used in determining annual receipts for fishing and for-hire businesses.

Ownership data collected from permit holders indicates that there are 2,025 distinct business entities that hold at least one Federal permit regulated by the proposed action. All 2,025 business entities identified could be directly regulated by this proposed action. Of these 2,025 entities, 1,685 are commercial fishing entities, 6 are for-hire

entities, and 334 did not have revenues (*i.e.*, were inactive in 2020). Of the 1,685 commercial fishing entities, 1,677 are categorized as small entities and 8 are categorized as large entities, per the NMFS guidelines. All six for-hire entities are categorized as small businesses.

The proposed Area 2 cap of 800 traps is at or higher than most entities' trap allocations, and all entities in excess of the preferred cap will be able to retain their current allocation. Thus, no costs are expected. The proposed Area 3 ownership caps are similarly largely set higher than most entities' allocations and all entities in excess of the preferred cap will be able to retain their current allocation. The active trap cap reduction may result in the loss of some traps, reducing fishing revenues and profits for fishing businesses. The loss in fishing profit from retired traps is estimated to be between \$307,000 and \$419,000, assuming a profit margin of 5 percent. For harvester reporting, the GARFO supported application for eVTRs is free of charge, and most individuals in the fishery own a device which can be used to submit eVTRs, wage hours are summarized below. We request comments on the assumptions underlying losses due to the proposal, including assumptions that no entities will go out of business due to the proposal and that entities are able to cover fixed costs on diminished revenues.

Description of the Projected Reporting, Record-Keeping, and Other Compliance

Requirements of this Proposed Rule

This action contains a new reporting and recordkeeping requirements for Federal American lobster permit holders that would involve costs to vessels to catch lobsters. Vessels would be required to complete a Federal vessel trip report at sea and submit the report electronically to GARFO within 48 hours of returning to port. Costs in terms of burden is estimated to be 7 minutes per report, or 10,065 burden hours total. With a mean hourly wage of \$14.49 dollars, total wage burden costs are \$155,586.

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

This action does not duplicate, overlap, or conflict with any other federal laws.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

Most alternatives analyzed in the draft environmental assessment minimize impacts of the proposed action on small entities. A no action alternative was analyzed for Area 2, Area 3 and reporting measures, all of which maintain the status quo and do not increase costs. Non-preferred alternatives were also proposed for each measures. For Area 2, the non-preferred alternative of implementing an ownership trap cap of 1,600 traps was expected to have similar impacts, and thus no costs. For Area 3, non-preferred alternatives included alternate ownership caps and applying historic control dates to the implementation of the ownership caps. The alternative ownership caps are expected to result in similar impacts, as the same entities exceed both the preferred and non-preferred ownership caps. The application of historic control dates would be more costly, as they would have impacted more traps. For harvester reporting, the non-preferred alternative included a paper reporting option which would have increased costs (associated with mailing forms).

Given the current state of the Area management programs, the alternatives remain consistent with the Commission's recommendations but do not consider implemented outdated management measures (*i.e.*, trap banking). Further, the preferred reporting alternative would leverage technology to minimize the burden of completing and submitting/ mailing paper Federal vessel trip reports. We request public comment on all alternatives.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This rule

includes a temporary information collection. The collection-of-information requirement in this proposed rule relates to the collection under Control Number 0648-0212, “Greater Atlantic Region Logbook Family of Forms.” However, due to multiple concurrent actions for that collection, the collection-of-information requirement in this proposed rule will be assigned a temporary Control Number that will later be merged into Control Number 0648-0212. Public reporting burden for eVTRs is estimated to average 7 minutes (0.117 hours), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at www.reginfo.gov/public/do/PRAMain.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 697

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 5, 2022.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 697 is proposed to be amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

1. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 1501 *et seq.*

2. In § 697.2, remove the definition for “Qualifying Year” and revise the definition for “Regional Administrator” to read as follows:

§ 697.2 Definitions.

* * * * *

Regional Administrator, means Regional Administrator, Greater Atlantic Region, NMFS, or Regional Administrator, Southeast Region, NMFS, whichever has the applicable jurisdiction, or a respective designee.

* * * * *

3. In § 697.4,

- a. Revise paragraph (a)(1) introductory text, and paragraphs (a)(7)(i) and (ii), and (d)(1);
- b. Remove and reserve paragraphs (a)(7)(vi) through (viii);
- c. Revise paragraph (f)(1)(i);
- c. Remove paragraph (f)(1)(v); and
- d. Add paragraph (q).

The revisions and addition read as follows:

§ 697.4 Vessel permits and trap tags.

(a) * * *

(1) *Eligibility.* To be eligible for issuance or renewal of a Federal limited access lobster permit, a vessel must:

* * * * *

(7) * * *

(i) It is unlawful for vessels issued a limited access American lobster permit fishing with traps, to retain on board, land, or possess American lobster in or from the management areas specified in § 697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access American lobster permit specifying such management area(s).

(ii) Each owner of a fishing vessel that fishes with traps capable of catching lobster must declare to NMFS in his/her annual application for permit renewal which management areas, as described in § 697.18, the vessel will fish in for lobster with trap gear during that fishing season. A permit federal lobster permit holder may declare into Lobster Conservation Management Areas 1, 2, 3, 4, 5, and/or the Outer Cape Management Area to fish with traps, only in the following two circumstances:

(A) The NOAA Regional Administrator previously qualified the permit into the requested area as part of the Area 1, 2, 3, 4, 5 and/or Outer Cape Cod Limited Access Program during the initial limited access area qualification process; and/or

(B) The permit holder, even if the permit has not qualified as described in paragraph (a)(7)(ii)(A) of this section, is seeking access to Area 2, 3, and/or the Outer Cape Area based upon ownership of traps acquired as part of the Trap Transfer Program, described in § 697.27, that the NOAA Regional Administrator has previously qualified and allocated under the Area 2, 3, and/or Outer Cape Cod Limited Access Programs.

* * * * *

(d) * * *

(1) Any lobster trap fished in Federal waters must have a valid Federal lobster trap tag

permanently attached to the trap bridge or central cross-member, unless exempt under § 697.26.

* * * * *

(f) * * *

(1) * * *

(i) The applicant has failed to submit a complete application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received and the applicant has submitted all applicable reports specified in paragraph (q) of this section.

* * * * *

(q) *Fishing Vessel Trip Reports—(1) Information to be Submitted.* All federally permitted lobster vessels must maintain onboard the vessel, and submit an electronic fishing log to NMFS for each fishing trip. Both the vessel permit owner and the vessel permit operator are responsible for ensuring the report is accurate and is filed. The report must be filed regardless of species fished for or taken during the trip and this report must be entered into and submitted through a software application approved by NMFS. The report must contain the following information:

- (i) Vessel name;
- (ii) USCG documentation number (or state registration number, if undocumented);
- (iii) Permit number;
- (iv) Date/time left port on fishing trip;
- (v) Date/time returned from port on fishing trip;
- (vi) Trip type (commercial, recreational, party, or charter);
- (vii) Number of crew;
- (viii) Number of anglers (if a charter or party boat);
- (ix) Gear fished;
- (x) Lobster trawl/string information;
- (A) Total number of trawls/strings in the water;

- (B) Average number of pots per trawl/string;
- (C) Total number of pots in the water;
- (xi) Entrance (ring/hoop) size;
- (xii) Chart area fished, based on the location of the start of haul back begins;
- (xiii) Latitude/longitude where the majority of fishing effort occurred;
- (xiv) Average depth where the majority of fishing effort occurred;
- (xv) Total number of strings hauled per chart area per trip;
- (xvi) Average soak time per trawl/string;
- (xvii) Hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species;
- (xviii) Dealer permit number;
- (xix) Dealer name;
- (xx) Date sold, port and state landed; and
- (xxi) Vessel operator's name, signature, and operator's permit number (if applicable).
- (xxii) Total number of traps hauled by chart area;
- (xxiii) Number of traps in chart area fished;
- (xxiv) Average number of traps per string hauled in the chart area fished;
- (xxv) Number of buoy lines in the chart area fished; and
- (xxvi) Total number of buoy lines in the water.

(2) *When to fill out a vessel trip report.* Vessel trip reports required by paragraph (q)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, prior to entering port. Information that may be considered unascertainable prior to entering port includes dealer name, dealer permit number, and date sold. Vessel trip reports must be completed as soon as the missing information is ascertained.

(3) *Inspection.* All persons required to submit reports under this part must make these reports and their underlying information available for inspection immediately upon the request of an authorized officer or an employee of NMFS designated by the Regional Administrator to make such inspections.

(4) *Submitting reports*—(i) For any vessel issued a valid lobster permit, or eligible to renew a limited access permit under this part, fishing vessel trip reports, required by paragraph (b)(1) of this section, must be submitted within 48 hours at the conclusion of a trip.

(ii) For the purposes of paragraph (q)(4)(i) of this section, the date when fish are offloaded from a commercial vessel will establish the conclusion of a commercial trip.

(iii) For the purposes of paragraph (q)(4)(i) of this section, the date a charter/party vessel enters port will establish the conclusion of a for-hire trip.

* * * * *

4. In § 697.6, revise paragraph (n)(1)(ii)(B) to read as follows:

§ 697.6 Dealer permits.

* * * * *

(n) * * *

(1) * * *

(ii) * * *

(B) When purchasing or receiving fish from a vessel landing in a port located outside of the Greater Atlantic Region (Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia and North Carolina), only purchases or receipts of species managed by the Greater Atlantic Region under this part (American lobster or Jonah crab), and part 697 of this chapter, must be reported. Other reporting requirements may apply to those species not managed by the Greater Atlantic Region, which are not affected by this paragraph (n); and

* * * * *

5. Revise § 697.18 to read as follows:

§ 697.18 Lobster management areas.

The following lobster management areas are established for purposes of implementing the management measures specified in this part. (A copy of a chart showing the American lobster EEZ management areas is available upon request to the Office of the Regional Administrator, NMFS, 55 Great Republic Drive, Gloucester, MA 01930.)

(a) *EEZ Nearshore Management Area 1.* EEZ Nearshore Management Area 1 includes state and federal waters nearshore in the Gulf of Maine that are bounded on the west and north by the coastlines of Massachusetts (including the southwestern extent of the Cape Cod Canal), New Hampshire, and Maine, bounded on the east by the U.S.-Canada Maritime Boundary, and bounded on the southeast by the following points connected in the order listed by straight lines:

Point	Latitude	Longitude	Notes
A	43°58.25' N.	67°21.44' W.	(1)
B	43°41' N.	68°00' N.	
C	43°12' N.	69°00' W.	
D	42°49' N.	69°40' W.	
E	42°15.5' N.	69°40' W.	
F	42°10' N.	69°56' W.	
G	42°05.5' N.	70°14' W.	
H	42°04.25' N.	70°17.22' W.	
I	42°02.84' N.	70°16.1' W.	
J	42°03.4' N.	70°14.2' W.	
(1) Point A is intended to fall on the U.S./Canada Maritime Boundary			

(b) *EEZ Nearshore Management Area 2.* EEZ Nearshore Management Area 2 includes state and federal waters nearshore in Southern New England that are bounded on the north by the coastlines of Massachusetts (including the northeastern extent of the Cape Cod Canal) and Rhode Island, and bounded on all other sides by the following points connected in the order listed by straight lines:

Point	Latitude	Longitude	Notes
A	41°40' N.	70°05' W.	
B	41°15' N.	70°05' W.	
C	41°21.5' N.	69°16' W.	
D	41°10' N.	69°06.5' W.	
E	40°55' N.	68°54' W.	
F	40°27.5' N.	72°14' W.	
G	40°45.5' N.	71°34' W.	
H	41°07' N.	71°43' W.	
I	41°06.5' N.	71°47' W.	
J	41°11.5' N.	71°47.25' W.	
K	41°18.5' N.	71°54.5' W.	(1)
(1) From Point K, the EEZ Nearshore Management Area 2 follows the maritime boundary between Connecticut and Rhode Island to the coastal Connecticut/Rhode Island boundary.			

(c) *Area 2/3 Overlap*. The Area 2/3 Overlap is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
A	41°10' N.	69°06.5' W.
B	40°55' N.	68°54' W.
C	40°27.5' N.	72°14' W.
D	40°45.5' N.	71°34' W.
A	41°10' N.	69°06.5' W.

(d) *EEZ Offshore Management Area 3*. EEZ Offshore Management Area 3 is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude	Notes
A	43°58.25' N.	67°21' W.	(1),(2)
B	43°41' N.	68°00' W.	
C	43°12' N.	69°00' W.	
D	42°49' N.	69°40' W.	
E	42°15.5' N.	69°40' W.	

F	42°10' N.	69°56' W.	
G	42°21.5 N.	69°16' W.	
H	41°10' N.	69°06.5' W.	
I	40°45.5' N.	71°34' W.	
J	40°27.5' N.	72°14' W.	
K	40°12.5' N.	72°48.5' W.	
L	39°50' N.	73°01' W.	
M	38°39.5' N.	73°40' W.	
N	38°12' N.	73°55' W.	
O	37°12' N.	74°44' W.	
P	35°34' N.	74°51' W.	
Q	35°14.5' N.	75°31' W.	
R	35°14.5' N.	71°24' W.	(2)
(1) Point A is intended to fall on the U.S.-Canada Maritime Boundary (2) From Point R back to Point A along the outer limit of the US EEZ and the U.S.-Canada Maritime Boundary			

(e) *EEZ Nearshore Management Area 4.* EEZ Nearshore Management Area 4 includes state and federal waters nearshore in the northern Mid-Atlantic, bounded on the west and north by the coastlines of New Jersey and New York (crossing the East River at 74°W), and bounded on all other sides by the following points connected in the order listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Notes
A	41°0.7' N.	72°00' W.	
B	40°57.33' N.	72°00' W.	(1),(2)
C	41°06.5' N.	71°47' W.	(2),(3)
D	41°07' N.	71°43' W.	
E	40°45.5' N.	71°34' W.	
F	41°27.5' N.	72°14' W.	
G	40°12.5' N.	72°48.5' W.	
H	39°50' N.	73°01' W.	
I	39°50' N.	72°09.2' W.	
(1) Point B is intended to fall along the Three Nautical Mile line.			

- (2) From Point B to Point C following the Three Nautical Mile line.
 (3) Point C is intended to fall along the Three Nautical Mile line.

(f) *EEZ Nearshore Management Area 5.* EEZ Nearshore Management Area 5 includes state and Federal waters nearshore in the southern Mid-Atlantic, bounded on the west by the coastline of the United states, and bounded on all other sides by the following points connected in the order listed by straight lines:

Point	Latitude	Longitude
A	39°50' N.	74°09.2' W.
B	39°50' N.	72°55' W.
C	38°38.2' N.	73°33.8' W.
D	38°10.4' N.	73°49' W.
E	37°10.6' N.	74°38' W.
F	35°31.9' N.	74°45.5' W.
G	35°14.5' N.	75°19.3' W.
H	35°14.5' N.	75°31.5' W.

(g) *Area 3/5 Overlap.* The Area 3/5 Overlap includes state and Federal waters in the southern Mid-Atlantic bounded by the following points connected in the order listed by straight lines:

Point	Latitude	Longitude
A	39°50' N.	73°01' W.
B	39°50' N.	72°55' W.
C	38°38.2' N.	73°33.8' W.
D	38°10.4' N.	73°49' W.
E	37°10.6' N.	74°38' W.
F	35°31.9' N.	74°45.5' W.
G	35°14.5' N.	75°19.3' W.
H	35°14.5' N.	75°31' W.
I	35°34' N.	74°51' W.
J	37°12' N.	74°44' W.
K	38°12' N.	73°55' W.

L	38°39.5' N.	73°40' W.
A	39°50' N.	73°01' W.

(h) *Nearshore Management Area 6*. The Nearshore Management Area 6 includes New York and Connecticut state waters, bounded by the Long Island Sound coastlines of both states (including the East River until 74°W, and the northern extent of the Harlem River), and bounded on the east by the following points connected in the order listed by straight lines:

Point	Latitude	Longitude	Notes
A	41°0.7' N.	72°00' W.	
B	40°57.33' N.	72°00' W.	(1)(2)
C	41°06.5' N.	71°47' W.	(2)(3)
D	41°11.5" N.	71°47.25" W.	
E	41°18.5" N.	71°54.5" W.	(4)
(1) Point B is intended to fall along the Three Nautical Mile line. (2) From Point B to Point C following the Three Nautical Mile line. (3) Point C is intended to fall along the Three Nautical Mile line. (4) From Point E, the Nearshore Management Area 6 follows the maritime boundary between Connecticut and Rhode Island to the coastal Connecticut/Rhode Island boundary.			

(i) *EEZ Nearshore Outer Cape Lobster Management Area*. EEZ Nearshore Outer Cape Lobster Management Area includes state and Federal waters off Cape Cod, bounded by the following points connected in the order listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Notes
A	41°54.46' N.	70°03.99' W.	(1)
B	41°52' N.	70°07.49' W.	
C	42°02.84' N.	70°16.1' W.	
D	42°04.25' N.	70°17.22' W.	
E	42°05.5' N.	70°14' W.	
F	42°10' N.	69°65' W.	
G	41°21.5' N.	69°16' W.	
H	41°15' N.	70°05' W.	
I	41°40' N.	70°05' W.	(1)
(1) From Point I back to Point A following the outer coastline of Cape Cod			

(j) *Area management.* NMFS may, consistent with § 697.25, implement management measures necessary for each management area, in order to end overfishing and rebuild stocks of American lobster.

6. In § 697.19, revise the section heading, paragraph (c), and add paragraph (m).

§ 697.19 Trap limits, ownership caps, and trap tag requirements for vessels fishing with lobster traps.

* * * * *

(c) *Area 3 trap limits.*—(1) Effective May 1, 2023, the Area 3 trap limit is 1,805 traps. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 3 by the Regional Administrator, as part of the Federal Area 3 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(2) Effective May 1, 2024, the Area 3 trap limit is 1,629 traps. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 3 by the Regional Administrator, as part of the Federal Area 3 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

(3) Effective May 1, 2025, the Area 3 trap limit is 1,548 traps. Federally permitted lobster fishing vessels may only fish with traps that have been previously qualified and allocated into Area 3 by the Regional Administrator, as part of the Federal Area 3 Limited Access Program. This allocation may be modified by trap cuts and/or trap transfers, but in no case shall the allocation exceed the trap limit.

* * * * *

(m) *Ownership caps.* (1) Area 2—(i) The Area 2 ownership cap shall be restricted to no more than 1,600 allocated traps. An entity is prohibited from possessing Area 2 trap allocations in excess of 1,600 traps. An entity shall be defined as any person having an ownership interest,

including, but not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a Federally permitted lobster vessel. In determining an entity's ownership cap allocation, NMFS will not attribute based upon an entity's percentage ownership interest, but will attribute the full amount of a permit's allocation to the entity upon a finding of any ownership interest in the permit. An entity with an ownership interest above this cap on May 1, 2022 shall not be reduced to this 1,600 trap cap, but may not expand their ownership interest beyond that which existed on May 1, 2022.

(ii) Effective May 1, 2024, the Area 2 ownership cap shall be restricted to no more than 800 allocated traps. An entity is prohibited from possessing Area 2 trap allocations in excess of 800 traps. An entity shall be defined as any person having an ownership interest, including, but not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a Federally permitted lobster vessel. In determining an entity's ownership cap allocation, NMFS will not attribute based upon an entity's percentage ownership interest, but will attribute the full amount of a permit's allocation to the entity upon a finding of any ownership interest in the permit. An entity with an ownership interest above this cap on May 1, 2022 shall not be reduced to this 1,600 cap, but may not expand their ownership interest beyond that which existed on May 1, 2022.

(iii) Vessel owners with an Area 2 lobster permit in confirmation of permit history, and in compliance with the ownership restrictions in paragraph (m)(2)(ii) of this section, are eligible to renew such permits(s) and/or confirmation(s) of permit history, but will be bound by the trap limits in paragraphs (m)(1)(i) or (ii) of this section.

(2) Area 3.—(i) Effective May 1, 2023, the Area 3 ownership cap shall be restricted to no more than 9,025 allocated traps. An entity is prohibited from possessing Area 3 trap allocations in excess of 9,025 traps. An entity shall be defined as any person having an ownership interest, including, but not limited to, persons who are shareholders in a vessel owned

by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a Federally permitted lobster vessel. In determining an entity's ownership cap allocation, NMFS will not attribute based upon an entity's percentage ownership interest, but will attribute the full amount of a permit's allocation to the entity upon a finding of any ownership interest in the permit.

(ii) Effective May 1, 2024, the Area 3 ownership cap shall be restricted to no more than 8,145 allocated traps. An entity is prohibited from possessing Area 3 trap allocations in excess of 8,145 traps. An entity shall be defined as any person having an ownership interest, including, but not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a Federally permitted lobster vessel. In determining an entity's ownership cap allocation, NMFS will not attribute based upon an entity's percentage ownership interest, but will attribute the full amount of a permit's allocation to the entity upon a finding of any ownership interest in the permit.

(iii) Effective May 1, 2025, the Area 3 ownership cap shall be restricted to no more than 7,740 allocated traps. An entity is prohibited from possessing Area 3 trap allocations in excess of 7,740 traps. An entity shall be defined as any person having an ownership interest, including, but not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a Federally permitted lobster vessel. In determining an entity's ownership cap allocation, NMFS will not attribute based upon an entity's percentage ownership interest, but will attribute the full amount of a permit's allocation to the entity upon a finding of any ownership interest in the permit.

(iv) Vessel owners with an Area 3 lobster permit in confirmation of permit history, and in compliance with the ownership restrictions in paragraph (m)(2)(ii) of this section, are eligible to renew such permits(s) and/or confirmation(s) of permit history, but will be bound by the trap limits in paragraphs (m)(1)(i) or (ii) of this section.

(v) Paragraphs (m)(2)(i) through (iii) of this section do not apply to an entity's Area 3

lobster trap permits and/or confirmations of permit history if that entity's trap allocation exceeded 7,740 traps as of May 1, 2022. The trap allocations of all such entities will be capped at their May 1, 2022 trap allocation.

* * * * *

7. In § 697.20, revise paragraphs (a)(5) through (7), and remove paragraphs (8) and (9), to read as follows:

§ 697.20 Size, harvesting and landing requirements.

(a) * * *

(5) The minimum carapace length for all American lobsters harvested in or from the Offshore Management Area 3 is $3\frac{17}{32}$ inches (8.97 cm).

(6) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 is $3\frac{17}{32}$ inches (8.97 cm).

(7) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (a) of this section.

* * * * *

8. In § 697.21, revise paragraphs (a)(1), (b)(4)(i) through (iii), (c)(3) and (4), (e), and (f), and remove paragraphs (a)(2) and (c)(5), to read as follows:

§ 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

(a) * * *

(1) *Identification and trap tagging.* Lobster gear must be marked with a trap tag (as specified in § 697.19) with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

* * * * *

(b) * * *

(4) * * *

(i) *Gulf of Maine gear area.* Gulf of Maine gear area is defined as all waters of the EEZ north of 42°20' N. lat. seaward of the outer boundary of the territorial sea (12 nautical miles (22.2 km) from the baseline);

(ii) *Georges Bank gear area.* Georges Bank gear area is defined as all waters of the EEZ south of 42°20' N. lat. and east of 70°00' W. long. or the outer boundary of the territorial sea (12 nautical miles (22.2 km) from the baseline), whichever lies farther east;

(iii) *Southern New England gear area.* Southern New England gear area is defined as all waters of the EEZ west of 70°00' W. long., east of 71°30' W. long., and north of 36°33' N lat. at a depth greater than 25 fathoms (45.72 m); and

* * * * *

(c) * * *

(3) All American lobster traps deployed or possessed in the EEZ Offshore Management Area 3, or deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Offshore Management Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than $2\frac{1}{16}$ inches (5.24 cm) × $5\frac{3}{4}$ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than $2\frac{1}{16}$ inches (6.82 cm) in diameter.

(4) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment, any other type of acceptable

escape vent that the Regional Administrator finds to be consistent with paragraph (c) of this section.

* * * * *

(e) *Maximum trap size—(1) EEZ Nearshore Management Area maximum trap size.*

American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under §697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the Area 2/3 Overlap, shall not exceed 22,950 cubic inches (376,081 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(2) *EEZ Offshore Management Area maximum trap size.* American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not exceed 30,100 cubic inches (493,249 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(f) *Enforcement action.* Unidentified, unmarked, unvented, or improperly-vented American lobster traps, or any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR part 904.

* * * * *

9. In § 697.23, revise paragraphs (b)(2), (c)(2), (d)(2), and (e)(2) to read as follows:

§ 697.23 Restricted gear areas.

* * * * *

(b) * * *

(2) *Definition of Restricted Gear Area I.* Restricted Gear Area I is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	*
AB	40°02.45' N	70°14.10' W	*
AC	40°05.20' N	70°10.90' W	*
AD	40°03.75' N	70°10.15' W	*
AE	40°00.70' N	70°08.70' W	*
AF	39°59.20' N	70°04.90' W	*
AG	39°58.25' N	70°03.00' W	*
AH	39°56.90' N	69°57.45' W	*
AI	39°57.40' N	69°55.90' W	*
AJ	39°57.55' N	69°54.05' W	*
AK	39°56.70' N	69°53.60' W	*
AL	39°55.75' N	69°41.40' W	*
AM	39°56.20' N	69°40.20' W	*
AN	39°58.80' N	69°38.45' W	*
AO	39°59.15' N	69°37.30' W	*
AP	40°00.90' N	69°37.30' W	*
AQ	40°00.65' N	69°36.50' W	*
AR	39°57.85' N	69°35.15' W	*
AS	39°56.80' N	69°34.10' W	*
AT	39°56.50' N	69°26.35' W	*
AU	39°56.75' N	69°24.40' W	*
AV	39°57.80' N	69°20.35' W	*
AW	40°00.05' N	69°14.60' W	*
AX	40°02.65' N	69°11.15' W	*
AY	40°02.00' N	69°08.35' W	*
AZ	40°02.65' N	69°05.60' W	*
BA	40°04.10' N	69°03.90' W	*
BB	40°05.65' N	69°03.55' W	*
BC	40°08.45' N	69°03.60' W	*
BD	40°09.75' N	69°04.15' W	*
BE	40°10.25' N	69°04.40' W	*
BF	40°11.60' N	69°05.40' W	*
BG	40°11.00' N	69°03.80' W	*
BH	40°08.90' N	69°01.75' W	*
BI	40°05.30' N	69°01.10' W	*
BJ	40°05.20' N	69°00.50' W	*
BK	40°04.35' N	69°00.50' W	*
BL	40°03.65' N	69°00.00' W	*

BM	40°03.60' N	68°57.20' W	*
BN	40°05.70' N	68°52.40' W	*
BO	40°08.10' N	68°51.00' W	*
BP	40°08.70' N	68°49.60' W	*
BQ	40°06.90' N	68°46.50' W	*
BR	40°07.20' N	68°38.40' W	*
BS	40°07.90' N	68°36.00' W	*
BT	40°06.40' N	68°35.80' W	
BU	40°05.25' N	68°39.30' W	
BV	40°05.40' N	68°44.50' W	
BW	40°06.00' N	68°46.50' W	
BX	40°07.40' N	68°49.60' W	
BY	40°05.55' N	68°49.80' W	
BZ	40°03.90' N	68°51.70' W	
CA	40°02.25' N	68°55.40' W	
CB	40°02.60' N	69°00.00' W	
CC	40°02.75' N	69°00.75' W	
CD	40°04.20' N	69°01.75' W	
CE	40°06.15' N	69°01.95' W	
CF	40°07.25' N	69°02.00' W	
CG	40°08.50' N	69°02.25' W	
CH	40°09.20' N	69°02.95' W	
CI	40°09.75' N	69°03.30' W	
CJ	40°09.55' N	69°03.85' W	
CK	40°08.40' N	69°03.40' W	
CL	40°07.20' N	69°03.30' W	
CM	40°06.00' N	69°03.10' W	
CN	40°05.40' N	69°03.05' W	
CO	40°04.80' N	69°03.05' W	
CP	40°03.55' N	69°03.55' W	
CQ	40°01.90' N	69°03.95' W	
CR	40°01.00' N	69°04.40' W	
CS	39°59.90' N	69°06.25' W	
CT	40°00.60' N	69°10.05' W	
CU	39°59.25' N	69°11.15' W	
CV	39°57.45' N	69°16.05' W	
CW	39°56.10' N	69°20.10' W	
CX	39°54.60' N	69°25.65' W	
CY	39°54.65' N	69°26.90' W	
CZ	39°54.80' N	69°30.95' W	
DA	39°54.35' N	69°33.40' W	
DB	39°55.00' N	69°34.90' W	
DC	39°56.55' N	69°36.00' W	
DD	39°57.95' N	69°36.45' W	
DE	39°58.75' N	69°36.30' W	
DF	39°58.80' N	69°36.95' W	

DG	39°57.95' N	69°38.10' W	
DH	39°54.50' N	69°38.25' W	
DI	39°53.60' N	69°46.50' W	
DJ	39°54.70' N	69°50.00' W	
DK	39°55.25' N	69°51.40' W	
DL	39°55.20' N	69°53.10' W	
DM	39°54.85' N	69°53.90' W	
DN	39°55.70' N	69°54.90' W	
DO	39°56.15' N	69°55.35' W	
DP	39°56.05' N	69°56.25' W	
DQ	39°55.30' N	69°57.10' W	
DR	39°54.80' N	69°58.60' W	
DS	39°56.05' N	70°00.65' W	
DT	39°55.30' N	70°02.95' W	
DU	39°56.90' N	70°11.30' W	
DV	39°58.90' N	70°11.50' W	
DW	39°59.60' N	70°11.10' W	
DX	40°01.35' N	70°11.20' W	
DY	40°02.60' N	70°12.00' W	
DZ	40°00.40' N	70°12.30' W	
EA	39°59.75' N	70°13.05' W	
EB	39°59.30' N	70°14.00' W	*
AA	40°02.75' N	70°16.10' W	*

* * * * *

(c) * * *

(2) *Definition of Restricted Gear Area II.* Restricted Gear Area II is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	*
EB	39°59.30' N	70°14.00' W	*
EC	39°58.85' N	70°15.20' W	
ED	39°59.30' N	70°18.40' W	
EE	39°58.10' N	70°19.40' W	
EF	39°57.00' N	70°19.85' W	
EG	39°57.55' N	70°21.25' W	
EH	39°57.50' N	70°22.80' W	
EI	39°57.10' N	70°25.40' W	
EJ	39°57.65' N	70°27.05' W	
EK	39°58.58' N	70°27.70' W	
EL	40°00.65' N	70°28.80' W	

EM	40°02.20' N	70°29.15' W	
EN	40°01.00' N	70°30.20' W	
EO	39°58.58' N	70°31.85' W	
EP	39°57.05' N	70°34.35' W	
EQ	39°56.42' N	70°36.80' W	
ER	39°58.15' N	70°48.00' W	
ES	39°58.30' N	70°51.10' W	
ET	39°58.10' N	70°52.25' W	
EU	39°58.05' N	70°53.55' W	
EV	39°58.40' N	70°59.60' W	
EW	39°59.80' N	71°01.05' W	
EX	39°58.20' N	71°05.85' W	
EY	39°57.45' N	71°12.15' W	
EZ	39°57.20' N	71°15.00' W	
FA	39°56.30' N	71°18.95' W	
FB	39°51.40' N	71°36.10' W	
FC	39°51.75' N	71°41.50' W	
FD	39°50.05' N	71°42.50' W	
FE	39°50.00' N	71°45.00' W	
FF	39°48.95' N	71°46.05' W	
FG	39°46.60' N	71°46.10' W	
FH	39°43.50' N	71°49.40' W	
FI	39°41.30' N	71°55.00' W	
FJ	39°39.00' N	71°55.60' W	
FK	39°36.72' N	71°58.25' W	
FL	39°35.15' N	71°58.55' W	
FM	39°34.50' N	72°00.75' W	
FN	39°32.20' N	72°02.25' W	
FO	39°32.15' N	72°04.10' W	
FP	39°28.50' N	72°06.50' W	
FQ	39°29.00' N	72°09.25' W	
FR	39°29.75' N	72°09.80' W	*
FS	39°32.65' N	72°06.10' W	*
FT	39°35.45' N	72°02.00' W	*
FU	39°41.15' N	71°57.10' W	*
FV	39°46.95' N	71°49.00' W	*
FW	39°53.10' N	71°42.70' W	*
FX	39°52.60' N	71°40.35' W	*
FY	39°53.10' N	71°36.10' W	*
FZ	39°57.50' N	71°20.60' W	*
GA	40°00.70' N	71°19.80' W	*
GB	39°59.30' N	71°18.40' W	*
GC	40°02.00' N	71°01.30' W	*
GD	40°00.50' N	70°57.60' W	*
GE	40°00.10' N	70°45.10' W	*
GF	39°58.90' N	70°38.65' W	*

GG	39°59.15' N	70°34.45' W	*
GH	40°00.55' N	70°32.10' W	*
GI	40°03.85' N	70°28.75' W	*
GJ	39°59.75' N	70°25.50' W	*
GK	39°59.80' N	70°21.75' W	*
GL	40°00.70' N	70°18.60' W	*
AA	40°02.75' N	70°16.10' W	*

* * * * *

(d) * * *

(2) *Definition of Restricted Gear Area III.* Restricted Gear Area III is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	*
GL	40°00.70' N	70°18.60' W	*
GK	39°59.80' N	70°21.75' W	*
GJ	39°59.75' N	70°25.50' W	*
GI	40°03.85' N	70°28.75' W	*
GH	40°00.55' N	70°32.10' W	*
GG	39°59.15' N	70°34.45' W	*
GF	39°58.90' N	70°38.65' W	*
GE	40°00.10' N	70°45.10' W	*
GD	40°00.50' N	70°57.60' W	*
GC	40°02.00' N	71°01.30' W	*
GB	39°59.30' N	71°18.40' W	*
GA	40°00.70' N	71°19.80' W	*
FZ	39°57.50' N	71°20.60' W	*
FY	39°53.10' N	71°36.10' W	*
FX	39°52.60' N	71°40.35' W	*
FW	39°53.10' N	71°42.70' W	*
FV	39°46.95' N	71°49.00' W	*
FU	39°41.15' N	71°57.10' W	*
FT	39°35.45' N	72°02.00' W	*
FS	39°32.65' N	72°06.10' W	*
FR	39°29.75' N	72°09.80' W	*
GM	39°33.65' N	72°15.00' W	
GN	39°47.20' N	72°01.60' W	
GO	39°53.75' N	71°52.25' W	
GP	39°55.85' N	71°45.00' W	
GQ	39°55.60' N	71°41.20' W	
GR	39°57.90' N	71°28.70' W	

GS	40°10.70' N	71°10.25' W	
GT	40°12.75' N	70°55.05' W	
GU	40°11.05' N	70°45.80' W	
GV	40°06.50' N	70°40.05' W	
GW	40°05.60' N	70°17.70' W	
AA	40°02.75' N	70°16.10' W	*

* * * * *

(e) * * *

(2) *Definition of Restricted Gear Area IV.* Restricted Gear Area IV is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

Point	Latitude	Longitude	Note
AA	40°02.75' N	70°16.10' W	*
GX	40°07.80' N	70°09.20' W	
GY	40°07.60' N	70°04.50' W	
GZ	40°02.10' N	69°45.00' W	
HA	40°01.30' N	69°45.00' W	
HB	40°00.50' N	69°38.80' W	
HC	40°01.70' N	69°37.40' W	
HD	40°01.70' N	69°35.40' W	
HE	40°00.40' N	69°35.20' W	
HF	39°57.30' N	69°25.10' W	
HG	40°05.50' N	69°09.00' W	
HH	40°14.30' N	69°05.80' W	
HI	40°14.00' N	69°04.70' W	
HJ	40°11.60' N	68°53.00' W	
HK	40°13.60' N	68°40.60' W	
BS	40°07.90' N	68°36.00' W	*
BR	40°07.20' N	68°38.40' W	*
BQ	40°06.90' N	68°46.50' W	*
BP	40°08.70' N	68°49.60' W	*
BO	40°08.10' N	68°51.00' W	*
BN	40°05.70' N	68°52.40' W	*
BM	40°03.60' N	68°57.20' W	*
BL	40°03.65' N	69°00.00' W	*
BK	40°04.35' N	69°00.50' W	*
BJ	40°05.20' N	69°00.50' W	*
BI	40°05.30' N	69°01.10' W	*
BH	40°08.90' N	69°01.75' W	*
BG	40°11.00' N	69°03.80' W	*

BF	40°11.60' N	69°05.40' W	*
BE	40°10.25' N	69°04.40' W	*
BD	40°09.75' N	69°04.15' W	*
BC	40°08.45' N	69°03.60' W	*
BB	40°05.65' N	69°03.55' W	*
BA	40°04.10' N	69°03.90' W	*
AZ	40°02.65' N	69°05.60' W	*
AY	40°02.00' N	69°08.35' W	*
AX	40°02.65' N	69°11.15' W	*
AW	40°00.05' N	69°14.60' W	*
AV	39°57.80' N	69°20.35' W	*
AU	39°56.75' N	69°24.40' W	*
AT	39°56.50' N	69°26.35' W	*
AS	39°56.80' N	69°34.10' W	*
AR	39°57.85' N	69°35.15' W	*
AQ	40°00.65' N	69°36.50' W	*
AP	40°00.90' N	69°37.30' W	*
AO	39°59.15' N	69°37.30' W	*
AN	39°58.80' N	69°38.45' W	*
AM	39°56.20' N	69°40.20' W	*
AL	39°55.75' N	69°41.40' W	*
AK	39°56.70' N	69°53.60' W	*
AJ	39°57.55' N	69°54.05' W	*
AI	39°57.40' N	69°55.90' W	*
AH	39°56.90' N	69°57.45' W	*
AG	39°58.25' N	70°03.00' W	*
AF	39°59.20' N	70°04.90' W	*
AE	40°00.70' N	70°08.70' W	*
AD	40°03.75' N	70°10.15' W	*
AC	40°05.20' N	70°10.90' W	*
AB	40°02.45' N	70°14.10' W	*
AA	40°02.75' N	70°16.10' W	*

* * * * *

10. Revise § 697.24 to read as follows:

§ 697.24 Exempted waters for Maine State American lobster permits.

A person or vessel holding a valid permit or license issued by the State of Maine that lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobsters in the following areas designated as EEZ, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(a) West of Monhegan Island in the federal waters located north of the line from 43°42.17' N lat., 69°34.27' W long. to 43°42.25' N lat., 69°19.30' W long.

(b) East of Monhegan Island in the federal waters located northwest of the line from 43°44' N lat., 69°15.08' W long. to 43°48.17' N lat., 69°8.02' W long.

(c) South of Vinalhaven in the federal waters located west of the line from 43°52.61' N lat., 68°40.00' W long. to 43°58.12' N lat., 68°32.95' W long.

(d) South of Boris Bubert Island in the federal waters located northwest of the line from 44°19.27' N lat., 67°49.50' W long. to 44°23.67' N lat., 67°40.50' W long.

11. In § 697.27, revise paragraph (a)(2)(vi) to read as follows:

§ 697.27 Trap transferability.

(a) * * *

(2) * * *

(vi) Trap allocations may be transferred in any increment.

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